

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

MELISSA L. WOODS	§ § § § § § § § § §	PLAINTIFF
v.		Civil No. 1:20cv80-HSO-JCG
HANCOCK COUNTY MISSISSIPPI SHERIFF'S DEPARTMENT, <i>et al.</i>		DEFENDANTS

ORDER DISMISSING PLAINTIFF'S CLAIMS WITHOUT PREJUDICE

This matter is before the Court upon the Magistrate Judge's Order [6] entered on June 9, 2020, requiring Plaintiff Melissa L. Woods ("Plaintiff") to properly serve Defendants and to file proper proofs of said service by July 7, 2020. After due consideration of the record and relevant legal authority, the Court finds that Plaintiff's claims against Defendants should be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m).

I. BACKGROUND

On March 2, 2020, Plaintiff filed a Complaint [1] in this Court against Defendants Hancock County Mississippi Sheriff's Department (the "Sheriff's Department"); Ricky Adam, individually and as Sheriff of Hancock County, Mississippi ("Adam"); Taylor Reed, individually and as Deputy Sheriff of Hancock County, Mississippi ("Reed"); Shondy Garcia, individually and as Deputy Sheriff of Hancock County, Mississippi ("Garcia"); Darrell Hughes, individually and as Deputy Sheriff of Hancock County, Mississippi ("Hughes"); and Ben O'Gwin,

individually and as Deputy Sheriff of Hancock County, Mississippi (“O’Gwin”). On that same date, Plaintiff caused Summonses to be issued as to the Sheriff’s Department, Hughes, O’Gwin, and Reed, *see* Summonses [2] at 1-4, and on March 10, 2020, she caused a Summons to be issued as to Adam, *see* Summons [5] at 1.

To date, no Summons has been issued as to Garcia, nor have any proofs of service been filed with respect to any Defendant. On June 9, 2020, the Magistrate Judge entered an Order [6] granting Plaintiff until July 7, 2020, to serve and file valid proofs of service of process upon Defendants. *See* Order [6] at 1-2. The Magistrate Judge warned that “[i]f Plaintiff does not serve Defendants, and file proof of valid service by this date, or otherwise show good cause for the failure to do so, the claims against Defendants will be subject to dismissal without prejudice and without further notice to Plaintiff.” *Id.* To date, Plaintiff has not filed any proofs of service nor has she sought additional time to do so.

II. DISCUSSION

Federal Rule of Civil Procedure 4(m) provides in relevant part that

[i]f a defendant is not served within 90 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m). “Rule 4(m) requires dismissal if a defendant is not served within 90 days after the complaint is filed, unless the plaintiff shows good cause for the failure.” *Lewis v. Sec’y of Pub. Safety & Corr.*, 870 F.3d 365, 369 (5th Cir. 2017).

In this case, the Court sua sponte extended the time for Plaintiff to serve Defendants and warned Plaintiff that if Defendants were not served by July 7, 2020, her claims may be dismissed without prejudice and without further notice to her. *See* Order [6] at 2. Plaintiff has not complied with the Court's Order. There is no indication in the record that any Defendant has ever been served, and Plaintiff has never caused a Summons to be issued as to Defendant Garcia. Further, Plaintiff has not sought additional time to serve Defendants and has not shown good cause for her failure to do so. In fact, nothing has been filed in the record of this case since the Magistrate Judge entered his Order [6] 30 days ago.

To date, 129 days have passed since Plaintiff filed the Complaint, and she has failed to properly or timely serve Defendants. Plaintiff's claims against Defendants should be dismissed without prejudice pursuant to Rule 4(m).

III. CONCLUSION

IT IS, THEREFORE, ORDERED AND ADJUDGED that, Plaintiff Melissa L. Woods's claims against Defendants are **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED AND ADJUDGED, this the 9th day of July, 2020.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE